

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

Vol. 14

JULY 30, 1980

No. 31

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 80-186)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in Colombia

There is published below a directive of June 6, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in category 650 manufactured or produced in Colombia. This directive amends, but does not cancel, that committee's directive of June 26, 1979 (T.D. 79-205).

This directive was published in the Federal Register on June 11, 1980 (45 F.R. 39526), by the committee.

(QUO-2-1)

Dated: July 9, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

(T.D. 80-187)

[Bonds]

Approval of carrier's bond, Customs form 3587; amendment of T.D. 80-105

T.D. 80-105 relating to the temporary approval of the carrier's bond of the following principal is hereby amended as necessary to show that the bond is now permanent.

Dated: July 7, 1980.

CUSTOMS

Name of principal and surety	Date of bond	Date of approval	Filed with district director/area director/amount
Russ's Motor Service, Inc., 5070 Lake St., Melrose Park, IL; motor carrier; International Fidelity Insurance Co.	Feb. 27, 1980	Mar. 25, 1980	Chicago, IL; \$25,000

BON-3-03

ALFRED G. SCHOLLE,
Director,
Carriers, Drawback, and Bonds Division.

(T.D. 80-188)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: July 7, 1980.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Aero Uruguay S.A., 905 16th St., Washington, D.C., Investors Insurance Company of America ¹	Apr. 21, 1980	June 18, 1980	Miami, FL; \$100,000
Air Florida, Inc., 3900 N.W. 79th Ave., Suite 501, Miami, FL; The Aetna Casualty & Surety Co. ¹	May 2, 1980	May 13, 1980	Miami, FL; \$100,000

¹ The foregoing principals have not been designated as carriers of bonded merchandise.

BON-3-01

ALFRED G. SCHOLLE,
Director,
Carriers, Drawback, and Bonds Division.

(T.D. 80-189)

Cotton Textile Products—Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Macau

There is published below a directive of June 6, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in category 337 manufactured or produced in Macau. This directive amends, but does not cancel, that committee's directive of January 25, 1980 (T.D. 80-73).

This directive was published in the Federal Register on June 11, 1980 (45 F.R. 39527), by the committee.

(QUO-2-1)

Dated: July 10, 1980.

WILLIAM D. SLYNE
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., June 6, 1980.

Committee for the Implementation of Textile Agreements
COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on January 25, 1980 by the chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and manmade fiber textile products, produced or manufactured in Macau.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 11, 1980 and for the 12-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for con-

sumption and withdrawal from warehouse for consumption of cotton textile products in category 337, produced or manufactured in Macau in excess of 28,000 dozen.¹

Cotton textile products in category 337 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in category 337 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of TSUSA numbers was published in the Federal Register on February 28, 1980 (45 F.R. 13172).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Portugal and with respect to imports of cotton textile products from Macau has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ARTHUR GAREL,
*Acting Chairman, Committee for the
Implementation of Textile Agreements.*

(T.D. 80-190)

Cotton and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in Poland

There is published below a directive of June 19, 1980, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restrictions on entry of cotton and manmade fiber textile products in categories 359 and 612 manufactured or produced in Poland. This directive amends,

¹ The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1979. Imports during the January-March period have amounted to 11,019 dozen.

but does not cancel, that committee's directive of December 20, 1979 (T.D. 80-61).

This directive was published in the Federal Register on June 25, 1980 (45 F.R. 42784), by the committee.

(QUO-2-1)

Dated: July 10, 1980.

WILLIAM D. SLYNE,
(For Chester R. Krayton,
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION,
Washington, D.C., June 19, 1980.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of December 20, 1979 from the chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the 12-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption of cotton and manmade fiber textile products in categories 359 and 612, among others.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreements on January 9, and 21, 1978, as amended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 19, 1980 and for the 12-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and manmade fiber textile products in categories 359 and 612, produced or manufactured in Poland in excess of the following levels of restraint:

<i>Category</i>	<i>Adjusted 12-month levels of restraint¹</i>
359	600,000 pounds
612	2,000,000 square yards

¹ The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1979.

The action taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton and manmade fiber textile products from Poland has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

PAUL T. O'DAY,
*Chairman, Committee for the
 Implementation of Textile Agreements.*

Cotton and Manmade Fiber Textile Products—Restriction on Entry

(T.D. 80-191)

Restriction on entry of cotton and manmade fiber textile products manufactured or produced in India

There is published below a directive of June 25, 1980, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton and manmade fiber textile products in certain categories manufactured or produced in India. This directive amends, but does not cancel, that committee's directive of December 21, 1979 (T.D. 80-58).

This directive was published in the Federal Register on June 30, 1980 (45 F.R. 43819), by the committee.

(QUO-2-1)

Dated: July 10, 1980.

WILLIAM D. SLYNE,
 (For Chester R. Krayton,
 Director, Duty Assessment Division).

(T.D. 80-192)

Synopses of Drawback Decisions

The following are synopses of drawback rates issued March 14, 1980, to May 28, 1980 inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313 (a) and (b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded, and the date on which it was forwarded.

Dated: July 10, 1980.

ALFRED G. SCHOLLE,
Director,
Carriers, Drawback, and Bonds Division.

(A) Company: Amdahl Corp.

Section 1313(a) Articles: Computer systems.

Section 1313(a) Merchandise: Various component parts including multiple chip carriers, frames, and assemblies.

Section 1313(b) Articles: Computer systems.

Section 1313(b) Merchandise: Various component parts including multiple chip carriers, frames, and assemblies.

Factory: Sunnyvale, Calif.

Statement signed: October 3, 1979.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: San Francisco, March 25, 1980.

(B) Company: Arcata Publications Group.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Los Angeles, Calif.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago, April 1, 1980.

(C) Company: Arcata Publications Group, Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Depew, N.Y.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago,
April 1, 1980.

(D) Company: W. R. Bean & Sons, Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Atlanta, Ga.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago,
April 1, 1980.

Revokes: T.D. 54758-C.

(E) Company: Bell & Howell Co.

Section 1313(a) Articles: Projectors, binoculars, language masters.

Section 1313(a) Merchandise: Lenses, production parts, subassemblies,
and prisms.

Section 1313(b) Articles: Motion picture and overhead projectors.

Section 1313(b) Merchandise: Projection lenses, lens elements.

Factory: Chicago, Ill.

Statement signed: March 5, 1980.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Chicago,
May 16, 1980.

Revokes: T.D. 48281-E; T.D. 44676-E; and T.D. 54975-E, as
amended by T.D. 66-49-J.

(F) Company: Brown Printing Co., Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Waseca, Minn.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago,
April 1, 1980.

(G) Company: R. R. Donnelly & Sons Co.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood
printing paper.

Factories: Chicago, Ill., Old Saybrook, Conn., Gallatin, Tenn., War-
saw, Ind., and Lancaster, Pa.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner: Chicago, April 1, 1980.

Revokes: T.D. 54339-D as amended by T.D. 54758-D.

(H) Company: Exxon Corp., Exxon Chemical Co. U.S.A. Division.

Section 1313(a) Articles: Paradyne 80 and other additives for lubri-
cating oils or fuels.

Section 1313(a) Merchandise: Biphenyl alcohol, Paranox 361, ECA
4818, and various other chemicals and components.

Section 1313(b) Articles: Additives for lubricating oils or fuels.

Section 1313(b) Merchandise: Chemicals and components as listed in
manufacturer's statement.

Factories: Bayonne and Linden, N.J., Morgantown, W. Va.

Statement signed: June 4, 1979.

Basis of claim: Used in.

Rate forwarded to Regional Commissioners of Customs: New York
and Houston, March 17, 1980.

Revokes: Unpublished Headquarters authorization letter of Febru-
ary 5, 1980.

(I) Company: General Electric Co.

Section 1313(a) Articles: Gears, turbines, and generators.

Section 1313(a) Merchandise: Gear, turbine, and generator forgings.

Section 1313(b) Articles: Gears, turbines, and generators.

Section 1313(b) Merchandise: Gear, turbine, and generator forgings.

Factory: Lynn, Mass.

Statement signed: July 17, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: New York,
March 20, 1980.

Revokes: T.D. 55587-F and T.D. 56384-T as amended by T.D. 66-60-P
and T.D. 72-274-U.

(J) Company: General Electric Co., Television Business Department.
Section 1313(a) Articles: Television receivers.

Section 1313(a) Merchandise: Various components and subassemblies.

Section 1313(b) Articles: Television receivers.

Section 1313(b) Merchandise: Various components and subassemblies.

Factory: Suffolk, Va.

Statement signed: March 14, 1980.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Baltimore,
March 28, 1980.

Revokes: T.D. 79-303-D.

(K) Company: Glen Raven Mills, Inc.

Section 1313(a) Articles: Multilobal bright textured polyester yarn,
65 or 70 denier.

Section 1313(a) Merchandise: Multilobal polyester yarn, nontex-
tured, 65 or 70 denier.

Section 1313(b) Articles: Multilobal bright textured polyester yarn,
65 or 70 denier.

Section 1313(b) Merchandise: Multilobal polyester yarn, nontextured,
65 or 70 denier.

Factories: Altamahaw and Newland, N.C.

Statement signed: November 19, 1979.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Miami,
March 14, 1980.

Revokes: T.D. 79-78-I.

(L) Company: Glen Raven Mills, Inc.

Section 1313(a) Articles: Multilobal bright textured polyester yarn,
90 denier.

Section 1313(a) Merchandise: Multilobal polyester yarn, nontex-
tured, 90 denier.

Section 1313(b) Articles: Multilobal bright textured polyester yarn,
90 denier.

Section 1313(b) Merchandise: Multilobal polyester yarn, nontextured,
90 denier.

Factories: Altamahaw and Newland, N.C.

Statement signed: November 19, 1979.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Miami,
March 14, 1980.

(M) Company: Great Northern Juice Corp.

Section 1313(a) Articles: Reconstituted orange juice and frozen
concentrated orange juice.

Section 1313(a) Merchandise: Concentrated orange juice for manu-
facturing.

Section 1313(b) Articles: Reconstituted orange juice and frozen
concentrated orange juice.

Section 1313(b) Merchandise: Concentrated orange juice for manu-
facturing.

Factory: Tonawanda, N.Y.

Statement signed: November 24, 1978.

Basis of claim: Used in.

Rate forwarded to Regional Commissioner of Customs: Boston,
April 17, 1980.

Revokes: T.D. 56334-P.

(N) Company: W. F. Hall Printing Co.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood
printing paper.

Factory: Chicago, Ill.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago,
April 1, 1980.

(O) Company: The Heil Co.

Section 1313(a) Articles: Solid waste systems.

Section 1313(a) Merchandise: Pulverizer (shredder).

Section 1313(b) Articles: Truck equipment, highway bulk transports,
solid waste systems, dehydration systems.

Section 1313(b) Merchandise: Hot-rolled steel sheet and plate; hot-
rolled steel low alloy plate.

Factories: Milwaukee, Wis., Fort Payne, Ala., Lancaster, Pa., Athens,
Tenn., and Tishomingo, Miss.

Statement signed: January 21, 1980.

Basis of claim: Section 1313(a)—used in; section 1313(b)—appearing
in.

Rate forwarded to Regional Commissioner of Customs: Chicago,
May 13, 1980.

Revokes: T.D. 55164-B, T.D. 52548-I, T.D. 78-407-I, and unpub-
lished Headquarters authorization letter of July 13, 1979.

(P) Company: Masco Corp., Burns Cold Forge Co. Division.

Section 1313(a) Articles: Steel forged truck and automobile trans-
mission parts; steel forged tractor power takeoff shafts.

Section 1313(a) Merchandise: Carbon and carbon alloy steel bars.

Section 1313(b) Articles: Steel forged truck and automobile trans-
mission parts; steel forged tractor power take-off shafts.

Section 1313(b) Merchandise: Carbon and carbon alloy steel bars.

Factory: Minerva, Ohio.

Statement signed: January 28, 1980.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Chicago,
May 28, 1980.

(Q) Company: Meiwa, U.S.A., Inc.

Section 1313(a) Articles: Unfinished polyvinyl products.

Section 1313(a) Merchandise: Polyvinyl chloride film.

Section 1313(b) Articles: Unfinished polyvinyl products.

Section 1313(b) Merchandise: Polyvinyl chloride dispersion resin.

Factory: Charlotte, N.C.

Statement signed: May 2, 1980.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: Miami,
May 22, 1980.

Revokes: T.D. 80-94-M.

(R) Company: Motor Coach Industries, Inc.

Section 1313(a) Articles: Buses.

Section 1313(a) Merchandise: Parts for buses.

Section 1313(b) Articles: Buses.

Section 1313(b) Merchandise: Parts for buses.

Factory: Pembina, N. Dak.

Statement signed: December 13, 1979.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: New York,
May 13, 1980.

(S) Company: NTN Elgin Corp.

Section 1313(a) Articles: Finished ball bearings and ball bearing parts.

Section 1313(a) Merchandise: High-carbon, chromium ball bearing

steel pipes and bars, inner rings, outer rings, seals, shields, and balls (finished and unfinished).

Section 1313(b) Articles: Finished ball bearings in addition to manufactured parts.

Section 1313(b) Merchandise: High-carbon, chromium ball bearing steel pipes and bars, retainers, inner rings, outer rings, seals, shields, and finished and unfinished balls.

Factory: Elgin, Ill.

Statement signed: July 18, 1979.

Basis of claim: Appearing in.

Rate forwarded to Regional Commissioner of Customs: New York, May 14, 1980.

(T) Company: Regensteiner Publishing Enterprises, Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Chicago, Ill.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago, April 1, 1980.

(U) Company: Rexnord Inc., Nordberg Machinery Group.

Section 1313(a) Articles: Mining machinery.

Section 1313(a) Merchandise: Rough and finished castings and forgings.

Section 1313(b) Articles: Mining machinery.

Section 1313(b) Merchandise: Hot-rolled steel plate; rough and finished castings and forgings.

Factory: Milwaukee, Wis.

Statement signed: February 26, 1980.

Basis of claim: Section 1313(a)—used in (as to finished castings and forgings), used in, less valuable waste (as to rough castings and forgings); section 1313(b)—appearing in (as to steel plate), used in (as to finished castings and forgings), used in, less valuable waste (as to rough castings and forgings).

Rate forwarded to Regional Commissioner of Customs: Chicago, May 14, 1980.

Revokes: T.D. 79-84-V.

(V) Company: Sharp Manufacturing Co. of America, Division of Sharp Electronics Corp.

Section 1313(a) Articles: Televisions, stereos, microwave ovens, copiers, refrigerators, calculators, and other electric and/or electronic commodities.

Section 1313(a) Merchandise: Megatron tubes, television picture tubes and various other electric and/or electronic parts and assemblies.

Section 1313(b) Articles: Televisions, stereos, microwave ovens, copiers, refrigerators, calculators, and other electric and/or electronic commodities.

Section 1313(b) Merchandise: Megatron tubes, television picture tubes, and various other electric and/or electronic parts and assemblies.

Factory: Memphis, Tenn.

Statement signed: March 28, 1980.

Basis of claim: Used in.

Rate forwarded to Regional Commissioner of Customs: New York, May 22, 1980.

(W) Company: Texas Color Printers, Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Dallas, Tex.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago, April 1, 1980.

(X) Company: Trinity Industries, Inc. (L.P.G. Division).

Section 1313(a) Articles: Steel storage tanks.

Section 1313(a) Merchandise: Hot-rolled carbon steel plates; steel hemispherical heads.

Section 1313(b) Articles: Steel storage tanks.

Section 1313(b) Merchandise: Hot-rolled carbon steel plates; steel hemispherical heads.

Factories: Dallas, Fort Worth, and Denton, Tex., Rocky Mount, N.C., West Memphis, Ark., New London, Minn., Beardstown, Ill., and Jackson, Ga.

Statement signed: March 14, 1980.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Houston, April 7, 1980.

(Y) Company: A. D. Weiss Lithograph.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Hollywood, Fla.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioners of Customs: Chicago and Miami, April 1, 1980.

(Z) Company: World Color Press, Inc.

Section 1313(a) Articles: Magazines.

Section 1313(a) Merchandise: Uncoated groundwood printing paper.

Section 1313(b) Articles: Magazines.

Section 1313(b) Merchandise: Coated and uncoated groundwood printing paper.

Factory: Effingham, Ill.

Statement signed: November 7, 1979.

Basis of claim: Used in, less valuable waste.

Rate forwarded to Regional Commissioner of Customs: Chicago, April 1, 1980.

ERRATUM

In CUSTOMS BULLETIN, Vol. 14, No. 27, dated July 2, 1980, in T.D. 80-161, on page 4, correct the second note immediately following footnote 1 to read:

The foregoing principals have been designated as carriers of bonded merchandise.

In CUSTOMS BULLETIN, Vol. 13, No. 50, dated December 12, 1979, in T.D. 79-299, on page 1, the surety for the principal US Air Inc., should be corrected to Aetna Insurance Co.

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

Chief Judge

Edward D. Re

Judges

Paul P. Rao

James L. Watson

Morgan Ford

Herbert N. Maletz

Scovel Richardson

Bernard Newman

Frederick Landis

Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Customs Decisions

(C.D. 4861)

BEN R. HENDRIX TRADING CO., INC., PLAINTIFF, v. THE UNITED STATES, DEFENDANT

*Memorandum Opinion and Order Granting
Defendant's Motion to Dismiss*

Court No. 79-6-01042

BOE, Judge: In the proceedings presently before this court, the defendant moves to dismiss the complaint and amended complaint of

the plaintiff filed herein on the grounds that (1) the court lacks jurisdiction of the subject matter of the action, and (2) the allegations of the complaint and the relief sought therein fail to state a claim upon which relief may be granted.

From an examination of the plaintiff's complaint and amended complaint, the plaintiff appears to seek relief through a variety of imprecise and ambiguous designations. In sum, however, it appears that the plaintiff requests that this court assume jurisdiction of the above-entitled action in order to (1) grant to the plaintiff an award in the amount of \$30,000,000 for damages and costs resulting from the alleged negligent and wrongful acts on the part of U.S. Customs officials and, in particular, the District Director of Customs at Laredo, Tex., and (2) issue what is termed in the within pleadings an "administrative ruling" with respect to the validity of the seizure of merchandise imported by the plaintiff, not entered and while in the joint custody under bond of the Customs Service and the warehouse proprietor, by a creditor through judicial process in a State court.

The protest upon which the summons and complaint in the within action are predicated was denied by the Customs Service on December 28, 1978, for the reason that it was untimely filed. In view of the insufficiency of the facts alleged with respect thereto, and particularly with respect to the paucity of facts as to the allegation that the Customs Service refused to accept prior protests of the plaintiff for filing in April of 1973, this court would deem it inappropriate to rule on the question of the timeliness in the filing of the protest herein in the absence of an evidentiary hearing with respect thereto. From the complaint and the amended complaint on file herein, however, it is patent that the aforesaid pleadings affirmatively disclose that this court does not have jurisdiction over the subject matter of the within action, and that the allegations therein fail to state a claim upon which relief may be granted.

The relief sought by the plaintiff relating to an award of pecuniary damages sounds in tort. It is axiomatic that the limited jurisdiction of the Customs Court is prescribed solely by the provisions of 28 U.S.C. § 1582. The jurisdiction of this court does not include actions in personam resulting from alleged negligent or wrongful acts of Government officials or agents. As provided in 28 U.S.C. § 1346, such actions are reserved to the exclusive jurisdiction of the U.S. district courts and/or the U.S. Court of Claims.

From the allegations in plaintiff's complaint and amended complaint as well as from the reported decisions of the Federal courts in which the plaintiff has instituted prior proceedings, it appears that after the sequestration ordered by the State court of the merchandise imported by the plaintiff and located in plaintiff's own warehouse under cus-

toms bond, plaintiff sought a declaratory judgment in the U.S. District Court, Southern District of Texas, Brownsville Division, seeking to have the attempted seizure of the subject merchandise by virtue of the order of the State court declared void.¹ The U.S. district court in said proceedings determined in its declaratory judgment that the State court properly could adjudicate the rights with respect to the subject merchandise. It may be noted that in said proceedings, George P. Schultz, as the Secretary of the Treasury of the United States, and the Customs officials of the U.S. Government were made party defendants.

With only scant reference to the foregoing proceedings in the U.S. district court in its complaint and amended complaint, the plaintiff now turns to this court in the attempt to secure what has been strangely termed in plaintiff's pleading as an administrative ruling with respect to the validity of the judicial proceedings conducted in State court relating to the imported merchandise presumably under bond and in the joint custody of the Customs Service and the warehouse proprietor (the plaintiff).

From the pleadings, however, no indication is contained therein with respect to the present status of the merchandise in question. It is only through the further examination of court decisions relating to the very matters here in issue that this court is apprised of the true nature of the alleged controversy to which our attention has been directed and relief sought.

It appears that after entry of the declaratory judgment of the U.S. district court an appeal was instituted by the plaintiff in the U.S. Circuit Court of Appeals, Fifth Circuit, in which appeal proceedings the plaintiff, plaintiff's creditor and various customs officials were before the court.² From the opinion of Chief Judge Brown on behalf of the circuit court of appeals, it is revealed that after the institution of the appeal, the plaintiff filed a chapter XI reorganization proceeding in bankruptcy. During the course of the chapter XI proceedings all parties moved to sell the merchandise, which sale was conducted under the jurisdiction of the Bankruptcy Court and the merchandise in question delivered to the buyers. In determining that the appeal cause had become moot due to the admittedly valid sale of the merchandise in question by the Bankruptcy Court in a proceeding voluntary initiated by the plaintiff, Chief Judge Brown stated:

Both Customs officials and Hendrix recognized that the Bankruptcy Court had power to order such a sale. Indeed, as

¹ *J. Henry Schroeder Banking Corporation v. George P. Schultz, Secretary of the Treasury of the United States; Ben R. Hendrix Trading Co., Inc. v. J. Henry Schroeder Banking Corporation*, 373 Fed. Supp. 1283 (S.D. Texas 1974).

² *J. Henry Schroeder Banking Corp. v. W. Michael Blumenthal, Secretary of the Treasury of the United States; Ben R. Hendrix Trading Co. v. J. Henry Schroeder Banking Corp.*, 560 F.2d 1192 (5th Cir. 1977).

debtor, Hendrix had enough power and control over the goods to surrender them to the Bankruptcy Court. Thereafter the goods were not subject to any restraint by State officials and were subject only to payment or security for Customs' duties. Hendrix owns no other merchandise or liquor under Customs' bond and is no longer actively involved in importing and exporting bonded merchandise.

The controversy that gave rise to the actions for declaratory judgments by both Hendrix and Schroeder was whether control of the liquor would be with Hendrix or with the State court officers and those who purchased it at the aborted judicial sales. Since the liquor has now been sold in an admittedly valid manner and is in the hands of third parties, none of the parties to the controversy below can be said to have any right of control over the goods. Thus, there is no longer any case or controversy. Hendrix owns no other merchandise in bond and is no longer in the business of importing and exporting bonded merchandise, so there is no likelihood that a similar controversy might arise in the future. (*Id.* at 1194-95.)

From the record in the within proceedings before this court as well as from the prior proceedings initiated by the plaintiff with reference to the very issue herein presented, it appears that relief presently is sought by the plaintiff in this court with respect to a subject matter consisting of merchandise which has been disposed of through sale and which no longer exists in any form or entity over which this court might exercise its jurisdiction. It is clear, therefore, that the question presented to this court relating to the validity of the exercise of the judicial process of a State court upon the merchandise imported by the plaintiff while in the joint custody of the Customs Service and the warehouse proprietor is thus moot. In the case of *Mills v. Green*, 159 U.S. 651, 653 (1895), the Supreme Court stated:

The duty of this Court, as of every other judicial tribunal, is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which can not affect the matter in issue in the case before it. It necessarily follows that when, pending an appeal from the judgment of a lower court, and without any fault of the defendant, an event occurs which renders it impossible for this Court, if it should decide the case in favor of the plaintiff, to grant him any effectual relief whatever, the Court will not proceed to a formal judgment, but will dismiss the appeal. And such a fact, when not appearing on the record, may be proved by extrinsic evidence.

Further, in the case of *California v. San Pablo & Tulare Railroad Co.*, 149 U.S. 308, 314 (1893), the Supreme Court stated:

The duty of this Court, as of every judicial tribunal, is limited to determining rights of persons or of property which are actually controverted in the particular case before it. When, in determin-

ing such rights, it becomes necessary to give an opinion upon a question of law, that opinion may have weight as a precedent for future decisions. But the Court is not empowered to decide moot questions or abstract propositions, or to declare, for the Government of future cases, principles or rules of law which cannot affect the result as to the thing in issue in the case before it. No stipulation of parties or counsel, whether in the case before the Court or in any other case, can enlarge the power, or affect the duty, of the Court in this regard.

In the instant proceedings, we are faced with the fact that the imported merchandise of the plaintiff, which was the subject matter of prior litigation in the Federal courts, has been sold with the consent of the plaintiff during the course of the bankruptcy proceedings. Certainly, no effectual relief now can be granted by this court with respect to such nonexistent merchandise, which at one point in time, may have formed the subject matter over which jurisdiction of this court might have existed.

Notwithstanding by whatever name it may be allegedly termed, the relief sought by the plaintiff in its request for an administrative ruling, in essence, is merely a request for an advisory opinion by this court, presumably for such use in pending bankruptcy proceedings as might prove of benefit in connection with the ultimate distribution of proceeds therein.³ The lack of power of this court or of any Federal court to issue such advisory opinions needs no further comment or explanation. *Oil Workers Unions v. Missouri*, 361 U.S. 363, 367 (1960); *United States v. Alaska SS Co.*, 253 U.S. 113, 116 (1920); and *North Carolina v. Rice*, 404 U.S. 244, 246 (1971).

In view of the foregoing and good cause appearing, it is hereby ORDERED that the motion of the defendant is, accordingly, granted and the above-entitled action be and is hereby dismissed.

Dated at New York, N. Y., this first day of July, 1980.

(C.D. 4862)

INTERNATIONAL SPRING MFG. CO., PLAINTIFF, *v.* UNITED STATES,

DEFENDANT

LEAF SPRINGS

Leaf springs which are suitable for use on various kinds of non self-propelled trailers held to be properly classified by Customs under item 652.88 as other springs rather than under item 652.84 as springs suitable for motor vehicle suspension, as claimed by plaintiff.

³ See Facts Of The Case at 9-10, attached to plaintiff's complaint.

Court No. 74-9-02617

[Judgment for defendant.]

(Decided July 2, 1980)

Doherty and Melahn (William E. Melahn at the trial; Walter E. Doherty, Jr. and Peter T. Middleton on the briefs) for the plaintiff.

Alice Daniel, Assistant Attorney General; *Joseph I. Liebman*, Attorney in Charge, Field Office for Customs Litigation (*Robert H. White* at the trial and on the brief), for the defendant.

MALETZ, Judge: The problem in this case is to determine the proper tariff classification of leaf springs of base metal which were imported from Canada in 1973 and 1974. Customs classified the articles under item 652.88 of the Tariff Schedules of the United States (TSUS) which provides for other springs and leaves for springs, of base metal, and assessed duty at the rate of 9.5 percent ad valorem. Plaintiff claims the articles are properly classifiable under item 652.84 which provides for springs and leaves for springs, of base metal, suitable for motor vehicle suspension and prescribes a duty rate of 4 percent ad valorem.

In this setting, the only issue is whether the imported springs are suitable for motor vehicle suspension. Any resolution of this issue depends on whether the non-self-propelled trailers for which the importations are suitable are motor vehicles within the meaning of item 652.84.

The relevant provisions of TSUS read as follows:

Schedule 6, Part 3, Subpart F.—Miscellaneous Metal Products

Springs and leaves for springs, of base metal:

[Claimed]								
652.84	Suitable for motor vehicle suspen-							4% ad val.
	sion-----	*	*	*	*	*	*	*
[Classified]								
652.88	Other-----							9.5% ad val.

Also relevant to plaintiff's claim are the following provisions of TSUS:

Schedule 6, Part 6, Subpart B.—Motor Vehicles

*	*	*	*	*	*	*	*
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Subpart B headnotes:

1. For the purposes of this subpart—

*	*	*	*	*	*	*	*
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(b) automobile truck tractors imported with their trailers are, together with their trailers, classifiable in item 692.02, but, if such tractors or trailers are separately imported, they are classifiable in item 692.27.

*	*	*	*	*	*	*	*
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Motor vehicles (except motorcycles) for the transport of persons or articles:

	Automobile trucks valued at \$1,000 or more, and motor buses:	
692.02	Automobile trucks-----	8.5% ad val.
*	* * * *	*
	Chassis, bodies (including cabs), and parts of the foregoing motor vehicles:	
*	* * * *	*
692.27	Other-----	4% ad val.
*	* * * *	*
692.60	Vehicles (including trailers), not self-pro- pelled, not specially provided for, and parts thereof-----	8% ad val.

General headnotes and rules of interpretation:

10. *General interpretative rules.*—For the purposes of these schedules—

* * * * *

(b) the titles of the various schedules, parts, and subparts and the footnotes therein are intended for convenience in reference only and have no legal or interpretative significance;

The importations consist of four types of leaf springs which are suitable for and used in various kinds of non-self-propelled trailers such as utility trailers for carrying air compressors, generating units, etc.; boat trailers, horse trailers, and mobile homes. The springs are not used in self-propelled vehicles nor is there any evidence that they are suitable for such use.¹

Against this background, it must be concluded for the reasons that follow that the non-self-propelled trailers for which the imported springs are suitable are not motor vehicles within the meaning of item 652.84, as claimed by plaintiff. In this circumstance, the court holds that the springs in question were correctly classified by Customs under item 652.88 as other springs and leaves for springs, of base metal.

As stated before, resolution of the instant controversy turns on whether the term "motor vehicle" as used in item 652.84 is limited to self-propelled vehicles or whether, as plaintiff claims, the term includes non-self-propelled vehicles such as the trailers here involved. And in construing that term, it is basic that in the absence of a contrary legislative intent, the common meaning controls. It is to be added that the common meaning of a term is a matter of law to be determined by the court, for which purpose the court may consult dictionaries and other authorities as an aid to the court's own knowledge. *Trans-Atlantic Company v. United States*, 60 CCPA 100, 102, C.A.D. 1088, 471 F.2d 1397, 1398 (1973).

¹ Suitability for use in terms of TSUS means that the article in question must be actually, practically, and commercially fit for the intended use. E.g., *United States v. Norman G. Jensen, Inc.*, 64 CCPA 51, 53, C.A.D. 1183, 550 F.2d 662, 664 (1977); Sturm, *Customs Law and Administration* (1980), § 53.3, p. 501.

Funk & Wagnalls New Standard Dictionary of the English Language (Unabridged, 1956) defines "motor vehicle" as:

n. Any form of self-propelling vehicle.

Webster's Third New International Dictionary of the English Language (Unabridged, 1963) defines "motor vehicle" as:

n. an automotive vehicle not operated on rails; esp. one with rubber tires or for use on highways.

The same source defines "automotive" (vehicle) as:

2: of, relating to, or concerned with vehicles or machines that propel themselves (as automobiles, trucks, planes, motor boats).

The Harper Encyclopedia of Science, volume III (1st ed. 1963) defines "motor vehicles" as follows (p. 806):

Motor vehicle: A self-propelled conveyance used for passenger transportation (automobiles, buses, motorcycles) or for hauling freight (trucks). * * *

A similar definition appears in the McGraw-Hill Dictionary of Scientific and Technical Terms (1974), which restricts motor vehicles to self-propelled devices.

Plaintiff, though, points out that the National Traffic and Motor Vehicle Safety Act of 1966 defines a "motor vehicle" as "any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads and highways, except any vehicle operated exclusively on a rail or rails." 15 U.S.C. § 1391(3).² Based on the definition contained in that and other nontariff statutes, plaintiff argues that the term "motor vehicle" includes any non-self-propelled vehicle that is used on public highways. However, it is settled that the definition of a term contained in a statute or regulation dealing with nontariff matters, such as public safety, does not determine the common meaning of that term for tariff purposes. *Pharmacia Laboratories, Inc. v. United States*, 67 CCPA—, C.A.D. 1235, 609 F. 2d 491, 493 (1979); *United States v. Mercantil Distribuidora et al.*, 43 CCPA 111, 116, C.A.D. 617 (1956); *Marine Products Co. v. United States*, 42 Cust. Ct. 154, 155, C.D. 2080 (1959).

Furthermore, it is apparent from item 692.60, *supra*, which covers "Vehicles (including trailers), not self-propelled, not specially provided for, and parts thereof," that Congress intended that various types of non-self-propelled trailers are to be classified as vehicles and not as motor vehicles.³

Plaintiff next argues that headnote 1(b), schedule 6, part 6, subpart B, *supra*, evidences an intent by Congress to classify non-self-pro-

² Plaintiff's witnesses relied on this definition of "motor vehicle" contained in the Safety Act of 1966 for their conclusion that the term "motor vehicle" included any vehicle which was drawn by another vehicle on the highways or roads.

³ The fact that item 692.60 is contained in schedule 6, part 6, subpart B, which is entitled "Motor Vehicles," is of no consequence. This is because general interpretative rule 10(b), *supra*, provides that "the titles of the various schedules, parts, and subparts * * * are intended for convenience in reference only and have no legal or interpretative significance."

pelled vehicles, such as the trailers here involved, as motor vehicles for the purpose of TSUS. That headnote (quoted before) provides:

1. For the purposes of this subpart—

* * * * *

(b) automobile truck tractors imported with their trailers are, together with their trailers, classifiable in item 692.02, but, if such tractors or trailers are separately imported, they are classifiable in item 692.27.

As previously indicated, item 692.02 covers "Motor vehicles (except motorcycles) for the transport of persons or articles: * * * Automobile trucks," while item 692.27 covers "Chassis, bodies (including cabs), and parts of the foregoing motor vehicles: * * * Other." From this, plaintiff contends that even if the trailers here involved are imported separately and apart from their tractors, they are still considered by headnote 1(b) to be "parts of the foregoing motor vehicles," and as such classifiable under item 692.27 as other parts of motor vehicles.

Headnote 1(b), as the parties agree, incorporates the decision of this court in *Border Brokerage Company v. United States*, 42 Cust. Ct. 343, Abs. 62955 (1959). See P.R.D. 74-10, 8 Cust. Bull. 603, 604 (1974). In *Border Brokerage*, semitrailers, each of which was capable of carrying four automobiles, were held to be properly classifiable under paragraph 369(c) of the Tariff Act of 1930 as parts of automobile trucks. In use, the semitrailer was affixed to a gasoline-powered tractor by means of a "fifth wheel" or "kingpin." Once attached, the trailer and tractor were generally kept together to maintain identity of licensing, and for the reason that the runways or jump skids, running from the truck to the trailer, had to be a proper length to reach from the front upper deck of the trailer to the carrying rack above the cab of the truck. However, they could be separated and used with other cabs designed to pull such trailers. Further, the engine was housed in a tractor capable of being joined to the trailer and carrying a portion of the load.

Pursuant to safety regulations of the Interstate Commerce Commission, the trailers were equipped with airbrakes so that if the kingpin assembly failed, and the trailer broke loose, the brakes would lock and bring the trailer to a standstill. Air lines for the brakes, and electric lines for the various signal lights, were respectively hose and wire connections which ran from the tractor to the trailer. They were so integrated that they operated as and when the driver of the cab applied the brake or foot pedal.

Based on these facts, the court concluded that the trailers in question were parts of automobile trucks for the reasons that the trailers were dedicated to a specific use in conjunction with the motor cabs and the record established that the joining of a trailer to the cab

created a single integrated unit with a common braking system and a common electric system operated simultaneously by the driver of the cab.

With these considerations in mind, it is apparent that not all non-self-propelled trailers are included within headnote 1(b). Indeed, the language of that headnote specifically refers only to automobile truck tractors imported with their trailers and states that if such trailers are imported separately they are classifiable under item 692.27 as other parts of motor vehicles. Particularly against the background of *Border Brokerage*, it seems evident that the headnote is directed to separately imported trailers which function in such manner as to create single, integrated automobile truck tractors when joined and hence are to be considered parts of motor vehicles for the purpose of TSUS. In the present case, by contrast, plaintiff has presented no evidence whatever that the involved trailers function as a single integrated unit when connected to the truck tractors, let alone any other evidence to establish that the trailers constitute parts of automobile truck tractors.

In the last analysis, plaintiff's position in effect is that all non-self-propelled trailers are motor vehicles under TSUS irrespective of whether or not they function as a single integrated unit when connected to the truck tractors. But such a position is at odds not only with the common meaning of motor vehicle but also with headnote 1(b). What is more, such an interpretation would render nugatory the words "including trailers" in item 692.60, which item (as previously indicated) covers "Vehicles (*including trailers*), not self-propelled, * * *." [Italic added.]

To support its position that all non-self-propelled trailers are motor vehicles under TSUS, plaintiff relies on the following abstract of a Bureau of Customs letter dated October 7, 1968 (T.D. 68-284(16), 2 Cust. Bull. 631):

Leaf springs measuring 26 inches in length from eye to eye which are used in the suspension systems of highway trailers, mobile homes, and in vehicles used in guided tours, movie studios, and other off-the-highway areas classifiable under the provision for springs and leaves for springs, of base metal: Suitable for motor vehicle suspension in item 652.84, TSUS.

Assuming that this Bureau letter may be construed as covering all trailers, it is in error. And of course it is in no way binding on the court. *Ditbro Pearl Co., Inc. v. United States*, 62 CCPA 95, C.A.D. 1152, 515 F. 2d 1157 (1975); *The Ferriswheel v. United States*, 84 Cust. Ct. —, —, C.D. 4844 (1980) (slip op. at 14).

For the foregoing reasons, the classification of the importations by Customs under item 652.88 is affirmed and the action is dismissed.

Decisions of the United States Customs Court

Customs Rules Decision

(C.D.R. 80-7)

SOUTHWEST FLORIDA WINTER VEGETABLE GROWERS ASSOCIATION,
ET AL., PLAINTIFFS, v. UNITED STATES, DEFENDANT, and WEST
MEXICO VEGETABLE DISTRIBUTORS ASSOCIATION, INTERVENOR

Order on Plaintiffs' Motion To Release Documents Claimed To Be Privileged and on Defendant's Cross-Motion for Discovery Order

Court No. 80-4-00577

(Dated July 2, 1980)

MALETZ, Judge:

I. The court having considered:

(a) The letter of May 13, 1980 from C. Christopher Parlin, Acting Deputy Assistant Counsel of the Department of Commerce, to the clerk of the court, transmitting a portion of the administrative record in the case and stating in part:

Volume 11 contains national security information and other privileged information. This volume should be safeguarded accordingly. [Emphasis in original.]

(b) Plaintiffs' motion to release documents claimed to be privileged; and

(c) Defendant's response to plaintiffs' motion and defendant's cross-motion that plaintiffs' motion be treated as a request for production of documents.

II. The court has determined that the quoted portion of the foregoing letter is an apparent claim of privilege. However, in no respect does it comply with the requirements for a proper claim of privilege.

III. It is therefore ordered that defendant shall file with this court, no later than July 31, 1980, a proper claim of privilege with respect to those documents, if any, contained in volume 11 of the administrative

record for which defendant asserts a claim of privilege. Such claim of privilege shall include:

(a) An affidavit from the head of the applicable department or agency attesting that he has personally reviewed each of the documents for which a claim of privilege is made;

(b) A specific designation and description of each document for which a claim of privilege is made; and

(c) A demonstration of the precise and certain reasons for preserving the confidentiality of each document for which privilege is claimed.

IV. It is further ordered that defendant's cross-motion to treat plaintiffs' motion as a request for discovery be denied.

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisal Decisions

DEPARTMENT OF THE TREASURY, July 7, 1980.
The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS		PORT OF ENTRY AND MERCHANDISE
						Par. or Item No. and Rate	Par. or Item No. and Rate	
PSO/108	Maletz, J. July 3, 1980	Shayne Knitwear, Inc.	78-0-02154	Item 382.58 37.56 per lb. +20% (blouses and pants) Item 791.75 0% (jackets)	Item 791.75 6% Dutiable as en- tireties on basis of export value; said value is invoice unit price	J. C. Penney Purchasing Corporation v. U.S. (C.D. 4671)	New York Ladies 3-piece suits; en- tireties	

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
P80/109	Maletz, J. July 3, 1980	Shayne Knitwear, Inc.	76-9-02167	Item 382.78 25¢ per lb. +32.5% (blouses and pants)	Item 791.75 6% Dutiable as entireties on basis of export value; said value is invoice unit price	J. C. Penney Corporation (C.D. 4671)	New York Ladies 3-piece suits; en- tireties
P80/110	Maletz, J. July 3, 1980	Shayne Knitwear, Inc.	76-9-02169	Item 772.30 12.5% (jackets and pants) Item 382.58 37.5¢ per lb. +30% (vests)	Item 792.30 12.5% Dutiable as entireties on basis of export value; said value is invoice unit price	J. C. Penney Corporation (C.D. 4671)	New York Ladies sets; entireties
P80/111	Boe, J. July 3, 1980.	Enerco, Inc.	79-10-01506	Item 475.35 0.25¢ per gal.	Not subject to duty under TSUS because it was never imported into U.S.	Hawaiian Independent Re- finery v. U.S. (C.D. 4777)	Honolulu Light and heavy gas oil, testing both over and under 25° A.P.I. gravity, manufactured in Foreign Trade Subzone 9A, Honolulu, from crude oil having the status of non- privileged foreign mer- chandise

P80/112	Bee, J. July 3, 1980	Hawaiian Refinery	Independent	79-4-00650	Item 475.05 0.12¢ per gal. Item 473.10 0.25¢ per gal.	Not subject to duty under TSUS because it was never imported into U.S.	Hawaiian Independent Re- finery v. U.S. (C.D. 4777) Honolulu Light and heavy gas oil, testing both over and under 26° A.P.I. gravity, manufactured in Foreign Trade Subzone 9A, Hon- olulu, from crude oil having the status of non- privileged foreign mer- chandise
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Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
RS0/218	Moletz, I. July 3, 1980	Petris Stores Corp.	76-6-01458	Export value	Appraised values less only the 7% buying commissions included in said appraised val- ues	Agreed facts statement of values	New York Wearing apparel

Judgment of the U.S. Customs Court in Appealed Case

JULY 2, 1980

Appeal 79-27.—Hawaiian Motor Company *v.* United States.—BRUSH CUTTERS—HAND TOOLS WITH SELF-CONTAINED NON-ELECTRIC MOTOR—AGRICULTURAL OR HORTICULTURAL IMPLEMENTS—TSUS.—C.D. 4790 affirmed March 13, 1980 (C.A.D. 1241).

Recent Unpublished Customs Service Decisions

The following listing of recent administrative decisions issued by the Office of Regulations and Rulings, U.S. Customs Service, and not otherwise published, is published for the information of Customs officers and the importing community. Although the decisions are not of sufficient general interest to warrant publication as Treasury decisions, the listing describes the issues involved and is intended to aid Customs officers and concerned members of the public in identifying matters of interest which recently have been considered by the Office of Regulations and Rulings.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, attention: Legal Reference Area, room 2404, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. These copies will be made available at a cost to the requester of 10 cents per page. However, the Customs Service will waive this charge if the total number of pages copied is 10 or less.

Decisions listed in earlier issues of the CUSTOMS BULLETIN, through December 21, 1979, are available in microfiche format at a cost of \$17.70 (15 cents per sheet of fiche). It is anticipated that additions to the microfiche will be made quarterly and subscriptions are available. Requests for the microfiche now available and for subscriptions should be directed to the Legal Reference Area. Subscribers will automatically receive updates as they are issued and will be billed accordingly.

Dated: July 14, 1980.

JOHN T. ROTH,
Acting Director,
Regulations and Research Division.

Date of decision	File No.	Issue
6-12-80	10456	Carrier control: Whether the use of a foreign-flag vessel as a stationary warehouse or storage vessel within U.S. territorial waters for the purpose of furnishing petroleum slops to an onshore refinery violates coastwise law

Date of decision	File No.	Issue
5-19-80	104627	Carrier control: Prohibition against transporting of passengers by foreign vessels between U.S. ports
6-12-80	104631	Vessel repair: Whether foreign repairs to a vessel boiler were necessitated by stress of weather or other casualty and thus remissible under 19 U.S.C. 1466(d)(1)
5-22-80	104651	Carrier control: Customs comments on H.R. 6899, a bill to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States
6-20-80	104698	Carrier control: Whether the use of a foreign-flag vessel as a hotel violates coastwise law
6-16-80	711553	Country of origin marking: Whether enameling and rebaking ceramic tiles constitutes a substantial transformation so that the country of origin of the tiles for marking purposes would be where the tiles are enamelled and finished
6-27-80	712995	Country of origin marking: Sunflower seeds and pumpkin seeds from Mexico which are processed in Canada
6-16-80	713089	Brokers: Whether special wording must be added to power-of-attorney form to authorize brokers to grant powers of attorney to other brokers
6-16-80	061231	Classification: Forklift attachments (657.25, 664.10)
3-31-80	061850	American selling price: Child's protective boot with a unit-molded, all-rubber bottom and a nylon, rubber, and plastic upper (700.60)
6-16-80	061894	American selling price: Athletic footwear (700.60)
6-16-80	062901	Classification: Learn-to-swim-suit (389.40)
5-21-80	062983	Classification: Fuel container of plastic (774.55)
6-24-80	064537	Classification: Disposable pocket lighter in wooden holder (756.04, 756.06)
6-16-80	064673	Classification: Windshield washer heater (657.30, 657.-35).
6-26-80	064675	Classification: Hand-painted and lettered gospel signs (652.75, 774.55)
6-16-80	064727	Classification: Christmas pins (740.30, 740.38)
6-20-80	064740	Classification: Pet litter scooper (256.90, 774.55)
6-27-80	064755	Classification: Love meter (737.95)
6-24-80	064907	Classification: Hair accessory of wood (750.22)
6-27-80	065183	Classification: Plastic keytops used on computer equipment (676.52, 685.90)
6-27-80	065205	Classification: Thong sandal in chief value of wood, but having rubber sole and polyester upper (700.80, 700.83)

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

(603-TA-6)

STEEL JACKS FROM CANADA

Notice of Extension of Preliminary Investigation

Notice is hereby given that on July 3, 1980, the U.S. International Trade Commission voted to continue a preliminary investigation under section 603 of the Trade Act of 1974 (19 U.S.C. 2482) which had been instituted on April 23, 1980 (45 F.R. 29141). The Commission voted to continue the investigation to permit the Commission staff to negotiate a settlement with respect to possible violations of section 337 of the Tariff Act of 1930, as amended, which were the subject of the staff's preliminary investigation. The expected parties to the settlement, in addition to the Commission, will include J. C. Hallman Manufacturing Co., Ltd., Ontario, Canada; American Gage & Manufacturing Co., Wauseon, Ohio; A. H. Bottorff Co., St. Joseph, Mo.; and Bloomfield Manufacturing Co., Inc., Bloomfield, Ind.

The Commission voted to continue the preliminary investigation until a settlement is reached or until the Commission determines one cannot be reached within a reasonable time. The Commission directed the staff to report back to the Commission on the status of the investigation in 4 weeks.

By order of the Commission.

Issued: July 3, 1980.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN FOOD SLICERS AND COM- }
PONENTS THEREOF } Investigation No. 337-TA-76

Notice to all Parties

The date of the prehearing conference is changed from August 26 to September 2, 1980. The hearing will commence immediately after the prehearing conference.

During a telephone conference on July 1, 1980, which was held to discuss the place of taking depositions of witnesses by respondent Crest, Crest and complainant Prodyne Enterprises, Inc. indicated that they were close to a settlement agreement under which Crest would be licensed under the '817 patent. Prodyne intends to file a motion for summary determination. Under the proposed agreement, this motion would not be opposed by Crest. If the motion is granted by the Commission, Prodyne will ask the Commission to issue an exclusion order, rather than orders to cease and desist against the individual respondents.

JANET D. SAXON,
Administrative Law Judge.

Issued: July 7, 1980.

701-TA-42 through 701-TA-50 (Final)

TOMATO PRODUCTS FROM BELGIUM, DENMARK, THE FEDERAL REPUBLIC OF GERMANY, FRANCE, IRELAND, ITALY, LUXEMBOURG, THE NETHERLANDS, AND THE UNITED KINGDOM

Notice of Withdrawal of Notice and Clarification of Publication Date of Final Determination

AGENCY: U.S. International Trade Commission.

ACTION: Withdrawal of duplicate notice of Commission negative final determination in investigation Nos. 701-TA-42 through 701-TA-50 (final) appearing on June 18, 1980 (45 F.R. 41245) and clarification of date of publication of negative final determination as June 25, 1980 (45 F.R. 42899).

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Bliss of the Office of the General Counsel, 202-523-0375.

SUPPLEMENTARY INFORMATION: On June 18, 1980 a notice of the Commission's negative final determination in Tomato Products

from the European Community, investigation Nos. 701-TA-50 (final) was published in the Federal Register. On June 25, 1980, due to a clerical error, the same notice was again published in the Federal Register. To correct this error the Commission is withdrawing the first notice of the final determination which appeared on June 18; 1980 (45 F.R. 41245) and declares the second notice which appeared on June 25, 1980 (45 F.R. 42899) to be the official notice and publication date of the final determination in the instant investigations.

By order of the Commission.

Issued: July 8, 1980.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN FOOD SLICERS AND COM-
PONENTS THEREOF

Investigation No. 337-TA-76

Commission Determination and Order

On June 9, 1980, the U.S. International Trade Commission amended the complaint and notice of investigation in the above-captioned case to include allegations that claim 1 of U.S. Letters Patent No. 3,766,817 is infringed by respondent Crest Industries Corp., and that claims 6 and 7 are infringed by all of the respondents. Complainant Prodyne Enterprises, Inc. now seeks to have claims 6 and 7 of the '817 patent dismissed as to Crest. The presiding officer has certified and recommended to the Commission that motion No. 76-10 be granted to terminate claims 6 and 7 of the '817 patent as to respondent Crest pursuant to 19 CFR section 210.51.

The purpose of this Commission determination and order is to provide for the disposition of claims 6 and 7 of the '817 patent as to respondent Crest.

Determination

Having reviewed the record in this investigation, the Commission on July 8, 1980, determined—that complainant should be allowed to withdraw claims 6 and 7 of the '817 patent from the investigation, which are alleged to be infringed by respondent Crest's food slicer.

Order

Accordingly, it is hereby ordered—

(1) That motion No. 76-10 be granted to terminate the investigation with prejudice with respect to claims 6 and 7 of U.S. Letters Patent No. 3,766,817 as to respondent Crest Industries Corp.;

(2) That this order and determination be published in the Federal Register and served upon each party of record in this investigation and upon the U.S. Department of Health and Human Services, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

(3) That a copy of the memorandum opinion may be obtained from the Secretary of the Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: July 9, 1980.

KENNETH R. MASON,
Secretary.

In the Matter of
CERTAIN SURVEYING DEVICES } Investigation No. 337-TA-68

Notice of Commission Determination and Order

Notice is hereby given that the Commission, upon consideration of the presiding officer's recommended determination and the record in this proceeding, investigation No. 337-TA-68, Certain Surveying Devices, has determined (Chairman Alberger and Commissioner Stern dissenting) that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain surveying devices which infringe the sole claim of U.S. Letters Patent 3,172,205, and has ordered that infringing surveying devices be excluded from entry into the United States for the term of the patent (until March 9, 1982), unless the importation is licensed by the patent owner. The Commission also ordered that the surveying devices ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 32 percent ad valorem during the period that this action is pending before the President.

The Commission's order is effective on the date of publication of this notice in the Federal Register. Any party wishing to petition for reconsideration must do so within 14 days of service of the Commission determination. Such petitions must be in accord with section 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the U.S. Court of Customs and Patent Appeals.

Copies of the Commission's determination, order, and memorandum opinion (USITC publication 1085, July 1980) are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0161. Notice of the institution

of the Commission's investigation was published in the Federal Register of July 5, 1979 (44 F.R. 39315).

By order of the Commission.

Issued: July 7, 1980.

KENNETH R. MASON,
Secretary.

Investigation No. 337-TA-75

CERTAIN LARGE VIDEO MATRIX DISPLAY SYSTEMS, AND COMPONENTS
THEREOF

Notice of Designation of Investigation as More Complicated

AGENCY: U.S. International Trade Commission.

ACTION: Designation of investigation No. 337-TA-75 as "more complicated" within the meaning of 19 U.S.C. 1337(b)(1) and 19 CFR 210.15, allowing 6 additional months for completion of the investigation.

NEW DATE FOR COMPLETION OF INVESTIGATION: June 19, 1981.

FOR FURTHER INFORMATION CONTACT: Michael B. Jennisson, Esq., Office of the General Counsel, 202-523-0189.

SUPPLEMENTAL INFORMATION:

BACKGROUND

On November 20, 1979, the U.S. International Trade Commission instituted an investigation to determine whether there is, or there is reason to believe there is, a violation of section 337 of the Tariff Act 1930 (19 U.S.C. 1337) in the unlawful importation of certain large video matrix display systems and components thereof into the United States, or in their sale, because such large video matrix display systems are allegedly covered by the claims of U.S. Letters Patent Nos. 3,495,762, 3,941,926, 4,009,335, and 4,148,073, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On May 21, 1980, respondent SSIH Equipment S.A. requested the Commission to designate the investigation "more complicated" within the meaning of 19 U.S.C. 1337(b)(1), allowing the Commission an additional 6 months in which to make its determination (motion docket No. 75-10). The Commission investigative attorney supported the motion and complainant Stewart-Warner Corp. opposed it. The

presiding officer recommended that the investigation be designated more complicated and certified the motion and accompanying papers to the Commission on June 9, 1980 (order No. 12).

AUTHORITY

Section 1337(b)(1) of title 19, United States Code, requires the Commission to "make its determination * * * at the earliest practicable time, but not later than 1 year (18 months in more complicated cases) after the date of publication of notice" in the Federal Register, in this case, December 19, 1980 (44 F.R. 75242). The Commission's Rules of Practice and Procedure provide that a "more complicated" investigation is "of an involved nature owing to the subject matter, difficulty in obtaining information, or large number of parties involved" (19 CFR 210.15). The display system at issue in this investigation is technologically highly sophisticated. The 35 or more patent claims at issue are accompanied by hundreds of pages of specifications and drawings. In addition to extensive discovery on the technical question, information on possible anticompetitive and predatory practices is being obtained from third parties in regard to respondent's affirmative defenses. The subject matter of the investigation is involved; obtaining information is difficult. The Commission therefore orders that this investigation be designated "more complicated."

Copies of any public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0161.

By order of the Commission.

Issued: June 27, 1980.

KENNETH R. MASON,
Secretary.

(19 CFR 207.46)

Investigation No. 731-TA-15 (Preliminary)

PIPES AND TUBES OF IRON OR STEEL FROM JAPAN

Notice of the Determination of the Commission After Reconsideration of Imports Provided For in Item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA) and of the Facts and Conclusions of Law Upon Which the Determination Is Based.

AGENCY: United States International Trade Commission.

ACTION: On the basis of the corrected record¹ developed in investi-

¹ The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

gation No. 731-TA-15 (preliminary), the Commission determines,² pursuant to section 733 of the Tariff Act of 1930, that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation from Japan of welded pipes of steel, provided for in item 610.3205 of the TSUSA, which are allegedly sold or likely to be sold at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Fry, Acting Director of Investigations, U.S. International Trade Commission; telephone 202-523-0242.

SUPPLEMENTARY INFORMATION: On February 28, 1980, the Commission and the Department of Commerce each received a petition from Babcock & Wilcox Co., Beaver Falls, Pa., alleging that the class or kind of merchandise described in the petition is being or is likely to be sold in the United States at less than fair value. The Commission instituted preliminary investigation No. 731-TA-15 under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of welded pipes and tubes of iron or steel provided for in TSUSA item 610.3205 and seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA items 610.4600, 610.4920, 610.5210, 610.5215, or 610.5270.³ The statute directed that the Commission make its determination within 45 days of its receipt of the petition, or in this case by April 14, 1980.

On April 9, 1980, the Commission determined on the basis of the record of its investigation (1) that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from Japan of welded pipes of steel, provided for in TSUSA item 610.3205, which are allegedly sold or likely to be sold at less than fair value; and (2) that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation

² Commissioners Moore and Bedell changed their affirmative votes of Apr. 9, 1980, with regard to item 610.3205 to negative votes on the basis of corrected import data. Chairman Alberger and Commissioner Stern voted in the negative with regard to item 610.3205 on Apr. 9, 1980, and the corrected data does not alter their original votes. Vice Chairman Calhoun voted affirmative on Apr. 9, 1980, and did not change his vote because the corrected data did not change his views.

³ On Mar. 18, 1980, the Department of Commerce issued its notice of institution of investigation with respect to the subject articles. However, Commerce did not initiate an investigation with respect to seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA item 610.4600. Thus, such articles were effectively excluded from the scope of the Commission's investigation, since there was no finding of sales at less than fair value on these articles.

from Japan of seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215, or 610.5270, which are allegedly sold or likely to be sold at less than fair value.

On April 25, 1980, the Commission received a request that it reconsider its determination in investigation No. 731-TA-15 on the basis that the data concerning the imports under item 610.3205 appeared to be in error for the years 1977-79. In response to the request, the Commission contacted all the respondents to the Commission's importers' questionnaire in investigation No. 731-TA-15. All but one of those firms indicated that the data they reported had been checked and verified, and that any changes were insubstantial. The remaining firm made revisions in the data reported which changed the aggregate import data compiled for item 610.3205 substantially. The Commission's Office of Investigations audited the underlying import records of the firm reporting the substantial changes, and verified that the original data submitted were in error.

On June 16, 1980, the Commission ordered that its determination in investigation No. 731-TA-15 be reopened to reconsider the corrected import statistics concerning Japanese welded pipe classified under item 610.3205. On June 24, 1980, Commissioners Moore and Bedell changed their determination with regard to TSUSA item 610.3205 from an affirmative determination to a negative determination. The changing of these votes had the effect of changing the Commission's determination on TSUSA item 610.3205 from affirmative to negative.

STATEMENT OF REASONS OF COMMISSIONERS MOORE AND BEDELL

On the basis of corrected information made available to the Commission, we determine—

That there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of welded pipes of steel, provided for in item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA), allegedly sold or likely to be sold at less than fair value.

On April 9, 1980, we found that the information supplied to the Commission in response to questionnaires indicated that "U.S. imports of the subject welded pipes from Japan had almost doubled from 1978 from their 1977 level, and in 1979, they were 68 percent higher than in 1977." (45 F.R. 27581, Apr. 23, 1980.) The questionnaire responses upon which these calculations were based were in error. The corrected data, which have been verified by the Commission's staff, indicate that imports of the subject pipes increased by

45 percent between 1977 and 1978 but were 3.5 percent lower in 1979 than in 1977. The substantial percentage increases from 1977 to 1979 upon which our affirmative determination was primarily based did not, in fact, exist, and we have changed our determination accordingly.

VIEWS OF CHAIRMAN ALBERGER

On the basis of the corrected record in this portion of the original investigation, I reaffirm my previous negative vote with respect to welded carbon steel boiler tubes. (45 F.R. 27583, Apr. 23, 1980.)

VIEWS OF VICE CHAIRMAN MICHAEL CALHOUN

I reaffirm my original vote in the preliminary case because the corrected data does not change my views (45 F.R. 27586, Apr. 23, 1980.)

VIEWS OF COMMISSIONER PAULA STERN

The corrected data now available on welded carbon steel boiler tubes only reinforces my original negative determination with respect to the industry in investigation No. 731-TA-15 (preliminary) (45 F.R. 27584, Apr. 23, 1980).

By order of the Commission.

Issued: July 7, 1980.

KENNETH R. MASON,
Secretary.

731-TA-7 (Final)

CERTAIN ELECTRIC MOTORS FROM JAPAN

Notice of Institution of Final Antidumping Duty Investigation and Hearing

AGENCY: U.S. International Trade Commission.

ACTION: Institution of final antidumping duty investigation to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain electric motors from Japan, upon which the administering authority has made a tentative affirmative preliminary determination are being, or are likely to be, sold in the United States at less than fair value.

EFFECTIVE DATE: June 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates
of the Commission's staff, 202-523-0369.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A petition was received in satisfactory form on August 27, 1979, from the motor and generator section of the National Electrical Manufacturers Association, alleging that certain electric motors imported from Japan are being sold at prices far below fair value and that, as a result, an industry in the United States is being materially injured and is threatened with material injury. These sales are alleged to constitute sales at less than fair value pursuant to section 731 of the Tariff Act of 1930 as amended (Public Law No. 96-39, 93 Stat. 162), hereinafter the act. Notice of the institution of the Commission's preliminary investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York office, and by publishing the notice in the Federal Register of January 14, 1980 (45 F.R. 2715). A public conference was held in Washington, D.C. on January 30, 1980.

On February 14, 1980, the Commission determined:

That there is a reasonable indication that an industry in the United States is materially injured by reason of the importation (from Japan) of AC, polyphase electric motors, over 5 horsepower but not over 500 horsepower, provided for in item 682.41 through 682.50 of the Tariff Schedules of the United States, which are allegedly sold at less than fair value.

Notice of that determination was published in the Federal Register of February 22, 1980. (45 F.R. 11939). On May 5, 1980, a notice of postponement of preliminary determination was published by the Department of Commerce in the Federal Register (45 F.R. 29619). The postponement was based on a determination that the case is "extraordinarily complicated" and extended the deadline for the preliminary determination to June 16, 1980.

On June 16, 1980, the Commerce Department made a tentative, affirmative, less-than-fair-value determination, but no final determination with regard to certain electric motors from Japan. On June 17, 1980, the Commerce Department granted a 60-day extension of the deadline for their final determination. Therefore, the final determination which was due on September 2, 1980, will be made not later than October 29, 1980.

AUTHORITY

The provisions of the Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144 (July 26, 1979) (19 U.S.C. 1671 et seq.)) repealed the Antidumping Act, 1921, and replaced it with subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673)(hereinafter the Tariff Act) effective on January 1, 1980. The antidumping statutes, as amended by the Trade Agreements Act of 1979, require that the Commission complete this investigation before the 45th day after which the administering authority (Commerce) makes its final affirmative determination. Commerce's final determination is due on October 29, 1980, and therefore the statutory deadline for completion of the Commission's investigation is December 12, 1980. Consequently, effective as of June 17, 1980, the Commission is instituting antidumping investigation No. 731-TA-7 (final) pursuant to section 735(b) of the Tariff Act, as added by title I of the Trade Agreements Act of 1979. This investigation will be conducted according to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 F.R. 76457), subpart C thereof.

SCOPE

The present investigation is being titled "Certain Electric Motors from Japan" to conform with the title used by the Department of Commerce in its investigation. For the purposes of this investigation, the term "certain electric motors" means polyphase AC electric motors, other than submersible well pump motors, over 5 horsepower but not over 500 horsepower, provided for in item Nos. 682.4130, 682.4200, 682.4545, 682.4600, 682.5010, and 682.5030 of the Tariff Schedules of the United States Annotated. The scope of this investigation has been narrowed to exclude submersible well pump motors as a consequence of the exclusion of such merchandise from the investigation by the Commerce Department.

WRITTEN SUBMISSIONS

Any person may submit to the Commission on or before the pre-hearing statement due date specified below a written statement of information pertinent to the subject of this investigation. A signed original and 19 true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with

the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

All written submissions, except for confidential business data, will be available for inspection by interested persons at the Office of the Secretary in Washington, D.C., and at the Commission's New York Office, 6 World Trade Center, New York, N.Y. 10048.

A staff report containing preliminary findings of fact will be available to all interested parties on October 31, 1980.

HEARING

The Commission will hold a public hearing in connection with the investigation on November 20, 1980. The proceeding will be conducted in the hearing room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, and will begin at 10 a.m., e.s.t. Parties desiring to appear at the hearing should notify the Office of the Secretary not later than 5 business days prior to the date of the hearing, and attend the prehearing conference at 10 a.m. on November 14, 1980, in room 117 at the Commission. In addition, all hearing participants must file written prehearing statements in conformity with section 207.22 of the Commission's Rules of Practice and Procedure (19 CFR 207.22) on or before November 14, 1980.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subpart C (19 CFR 207), and part 201, subparts A through E (19 CFR 201). This notice is published pursuant to section 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 F.R. 76458).

By order of the Commission.

Issued: July 3, 1980.

KENNETH R. MASON,
Secretary.

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